

§ 37.3

42 CFR Ch. I (10–1–13 Edition)

electronic medical image display device.

[77 FR 56726, Sept. 13, 2012]

§ 37.3 Chest radiographs required for miners.

(a) *Voluntary examinations.* Every operator must provide to each miner who is employed in or at any of its underground coal mines and who was employed in underground coal mining prior to December 30, 1969, or who has completed the required examinations under § 37.3(b) an opportunity for a chest radiograph in accordance with this subpart:

(1) Following August 1, 1978 NIOSH will notify the operator of each underground coal mine of a period within which the operator may provide examinations to each miner employed at its coal mine. The period must begin no sooner than October 15, 2012 and end no later than a date specified by NIOSH separately for each coal mine. The termination date of the period will be approximately 5 years from the date of the first examination that was made on a miner employed by the operator in its coal mine under the former regulations of this subpart adopted July 27, 1973. Within the period specified by NIOSH for each mine, the operator may select a 6-month period within which to provide examinations in accordance with a plan approved under § 37.5.

Example: NIOSH finds that between July 27, 1973, and March 31, 1975, the first radiograph for a miner who was employed at mine Y and who was employed in underground coal mining prior to December 30, 1969, was made on January 1, 1974. NIOSH will notify the operator of mine Y that the operator may select and designate on its plan a 6-month period within which to offer its examinations to its miners employed at mine Y. The 6-month period must be scheduled between August 1, 1978 and January 1, 1979 (5 years after January 1, 1974).

(2) For all future voluntary examinations, NIOSH will notify the operator of each underground coal mine when sufficient time has elapsed since the end of the previous 6-month period of examinations. NIOSH will specify to the operator of each mine a period within which the operator may provide examinations to its miners employed

at its coal mine. The period must begin no sooner than 3½ years and end no later than 4½ years subsequent to the ending date of the previous 6-month period specified for a coal mine either by the operator on an approved plan or by NIOSH if the operator did not submit an approved plan. Within the period specified by NIOSH for each mine, the operator may select a 6-month period within which to provide examinations in accordance with a plan approved under § 37.5.

Example: NIOSH finds that examinations were previously provided to miners employed at mine Y in a 6-month period from July 1, 1979, to December 31, 1979. NIOSH notifies the operator at least 3 months before July 1, 1983 (3½ years after December 31, 1979) that the operator may select and designate on its plan the next 6-month period within which to offer examinations to its miners employed at mine Y. The 6-month period must be scheduled between July 1, 1983, and July 1, 1984 (between 3½ and 4½ years after December 31, 1979).

(3) Within either the next or future period(s) specified by NIOSH to the operator for each of its coal mines, the operator of the coal mine may select a different 6-month period for each of its mines within which to offer examinations. In the event the operator does not submit an approved plan, NIOSH will specify a 6-month period to the operator within which miners must have the opportunity for examinations.

(b) *Mandatory examinations.* Every operator must provide to each miner who begins working in or at a coal mine for the first time after December 30, 1969:

(1) An initial chest radiograph, as soon as possible, but in no event later than 6 months after commencement of employment. An initial chest radiograph given to a miner according to former regulations for this subpart prior to August 1, 1978 will also be considered as fulfilling this requirement.

(2) A second chest radiograph, in accordance with this subpart, 3 years following the initial examination if the miner is still engaged in underground coal mining. A second radiograph given to a miner according to former regulations under this subpart prior to August 1, 1978 will be considered as fulfilling this requirement.

(3) A third chest radiograph 2 years following the second chest radiograph

if the miner is still engaged in underground coal mining and if the second radiograph shows evidence of category 1 ($\frac{1}{10}$, $\frac{1}{4}$, $\frac{1}{2}$), category 2 ($\frac{2}{4}$, $\frac{2}{2}$, $\frac{2}{3}$), category 3 ($\frac{3}{2}$, $\frac{3}{3}$, $\frac{3}{4}$) simple pneumoconioses, or complicated pneumoconioses (ILO Classification).

(c) NIOSH will notify the miner when he or she is due to receive the second or third mandatory examination under (b) of this section. Similarly, NIOSH will notify the coal mine operator when the miner is to be given a second examination. The operator will be notified concerning a miner's third examination only with the miner's written consent, and the notice to the operator must not state the medical reason for the examination nor that it is the third examination in the series. If the miner is notified by NIOSH that the third mandatory examination is due and the operator is not so notified, availability of the radiographic examination under the Coal Mine Operator's Plan (Form CDC/NIOSH (M)2.10) will constitute the operator's compliance with the requirement to provide a third mandatory examination even if the miner refuses to take the examination.

(d) The opportunity for chest radiographs to be available by an operator for purposes of this subpart must be provided in accordance with a plan that has been submitted and approved in accordance with this subpart.

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§ 37.4 Plans for chest roentgenographic examinations.

(a) Every plan for chest radiographic examinations of miners must be submitted on the Coal Mine Operator's Plan form (Form CDC/NIOSH (M)2.10) to NIOSH within 120 calendar days after August 1, 1978. In the case of a person who after August 1, 1978, becomes an operator of a mine for which no plan has been approved, that person must submit a plan within 60 days after such event occurs. A separate plan must be submitted by the operator and by each construction contractor for each underground coal mine that has a MSHA identification number. The plan must include:

(1) The name, address, and telephone number of the operator(s) submitting the plan;

(2) The name, MSHA identification number for respirable dust measurements, and address of the mine included in the plan;

(3) The proposed beginning and ending date of the 6-month period for voluntary examinations (see § 37.3(a)), the estimated number of miners to be given or offered examinations during the 6-month period under the plan, and a roster specifying the names and current home mailing addresses of each miner covered by the plan;

(4) The name and location of the approved X-ray facility or facilities, and the approximate date(s) and time(s) of day during which the radiographs will be given to miners to enable a determination of whether the examinations will be conducted at a convenient time and place;

(5) If a mobile facility is proposed, the plan shall provide that each miner be given adequate notice of the opportunity to have the examination and that no miner shall have to wait for an examination more than 1 hour before or after his or her work shift. In addition, the plan shall include:

(i) The number of change houses at the mine.

(ii) One or more alternate nonmobile approved facilities for the reexamination of miners and for the mandatory examination of miners when necessary (see § 37.3(b)), or an assurance that the mobile facility will return to the location(s) specified in the plan as frequently as necessary to provide for examinations in accordance with these regulations.

(iii) The name and location of each change house at which examinations will be given. For mines with more than one change house, the examinations shall be given at each change house or at a change house located at a convenient place for each miner.

(6) The name and address of the A or B Reader who will interpret and classify the chest radiographs. In the event a plan lists an approved facility with a digital radiography system, the name and address of the physician(s) who will perform the initial clinical interpretation.

(7) Assurances that: